

Message Text

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INFO OCT-01 EA-11 ISO-00 SCA-01 RSC-01 SCSE-00 /017 R

DRAFTED BY L/M/SCA:CLBLAKESLEY:MA

APPROVED BY L/M/SCA:KEMALMBORG

SCA:GPALMER

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R 112104Z DEC 73

FM SECSTATE WASHDC

TO AMCONSUL SURABAYA

INFO AMEMBASSY JAKARTA

UNCLAS STATE 242224

E.O. 11652, N/A

TAGS: CDES, ID (RIEND, JOHN G.)

SUBJECT: DISPOSITION OF ESTATE, JOHN G. RIEND

REF: SURABAYA 435

1. ASSUMING DECEDENT WAS U.S. CITIZEN, QUESTIONS POSED IN REFTEL ARE CONSIDERED IN DETAIL BY 7 FAM 444 THROUGH 446 AS DESCRIBED BELOW.

2. CONSULAR OFFICER SHOULD REQUIRE LETTERS OF ADMINISTRATION AS EVIDENCE OF CLAIMANT'S RIGHT TO RECEIVE INDONESIAN PORTION OF ESTATE, AS AFFIDAVIT OF NEXT OF KIN IS INSUFFICIENT UNDER INSTANT CIRCUMSTANCES (7 FAM 446.2-2, 446.203).

3. 7 FAM 446.1 STATES THAT THE CONSULAR OFFICER IS RESPONSIBLE TO U.S. COURT HAVING PROBATE JURISDICTION AND ALSO TO THE PARTIES IN INTEREST FOR THE PERSONAL ESTATE. CONSULAR OFFICER MUST DELIVER THE ESTATE TO, OR OTHERWISE DISPOSE OF IT ACCORDING TO THE WISHES OF THE LEGAL REPRESENTATIVE OF THE DECEDENT UPON THE PRESENTATION OF SATISFACTORY EVIDENCE OF THE LATTER'S RIGHT TO RECEIVE THE ESTATE AND UPON PAYMENT OF THE APPROPRIATE FEES.

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4. DETERMINATION OF WHAT CONSTITUTES SATISFACTORY

EVIDENCE AS TO WHO IS PROPER LEGAL REPRESENTATIVE AND HAS RIGHT TO THE PERSONAL ESTATE OF THE DECEASED IS RESPONSIBILITY OF THE CONSULAR OFFICER. CONSULAR OFFICER, THEREFORE, MUST SATISFY HIMSELF THAT THE EVIDENCE WHICH HE ACCEPTS IS SUFFICIENT TO RELIEVE HIM AS PROVISIONAL CONSERVATOR. A CERTIFIED COPY OF LETTERS OF ADMINISTRATION FROM ANY (U.S. OR MEXICAN) COURT APPOINTING THE ADMINISTRATOR CONSTITUTES PRIMA FACIE EVIDENCE OF ADMINISTRATOR'S RIGHT TO TAKE POSSESSION OF THE PERSONAL ESTATE (7 FAM 446.2).

5. CONSULAR OFFICER SHOULD BE CERTAIN THAT THERE ARE NO RIVAL LETTERS OF ADMINISTRATION, BUT SHOULD ACT ON THE BASIS OF THE PRIMA FACIE EVIDENCE HE HAS RECEIVED.

6. IF ADMINISTRATORS ARE APPOINTED BY BOTH MEXICAN AND U.S. COURTS, THE CONSULAR OFFICER SHOULD REFUSE TO DELIVER THE PERSONAL ESTATE UNTIL AN AGREEMENT HAS BEEN REACHED, OR JUDGMENT RENDERED, AS TO WHICH CLAIMANT OR ADMINISTRATOR SHOULD RECEIVE IT, AND THE CONSULAR OFFICER SO INFORMED IN WRITING. IF, AFTER 1 YEAR, AGREEMENT HAS NOT BEEN REACHED BETWEEN RIVAL CLAIMANTS, OR JUDGMENT RENDERED, THE CONSULAR OFFICER SHOULD NOTIFY ALL PARTIES CONCERNED AND SELL THE ENTIRE PERSONAL ESTATE AT AUCTION IN THE MANNER PRESCRIBED BY 7 FAM 445.5, WITH THE EXCEPTION OF JEWELRY, HEIRLOOMS, AND ARTICLES WHICH MAY HAVE SENTIMENTAL VALUE TO RELATIVES, REGARDLESS OF INTRINSIC VALUE. SHOULD ANY OF THE PERSONAL PROPERTY NOT HAVE BEEN TAKEN INTO PHYSICAL POSSESSION PREVIOUSLY (SEE. 445.1-2), THE CONSULAR OFFICER SHOULD TAKE POSSESSION OF SUCH PROPERTY AND, AFTER PREPARING A SUPPLEMENTARY INVENTORY IN THE MANNER PRESCRIBED IN SECTION 445.4, INCLUDE THIS PORTION OF THE ESTATE WITH THAT ALREADY IN HIS POSSESSION. THE PROCEEDS OF THE SALE SHOULD BE CONVERTED INTO UNITED STATES DOLLARS (SEC. 447.2) PRESCRIBED BY SECTION 448.1, SHOULD BE TRANSMITTED, WITH ANY UNSOLD PORTION OF THE ESTATE IN THE CONSULAR OFFICER'S POSSESSION, TO THE DEPARTMENT OF STATE FOR FORWARDING TO THE GENERAL UNCLASSIFIED

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ACCOUNTING OFFICE FOR SAFEKEEPING AND LAWFUL DISPOSITION AS CONSERVATOR OF THE ESTATE (7 FAM 446.4; 22 U.S.C. 1175).

7. IN CASE OF RIVAL CLAIMANTS CONSULAR OFFICER COULD SUGGEST TO BOTH PARTIES THAT THEY TAKE ACTION BEFORE AN APPROPRIATE INDONESIAN COURT BEFORE THE ONE YEAR TIME PERIOD HAS EXPIRED AND HAVE THE COURT DETERMINE AND

APPOINT A PROPER LEGAL REPRESENTATIVE. IF THERE ARE ANY
PROBLEMS IN THIS REGARD, PLEASE ADVISE. KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 11 DEC 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE242224
Document Source: CORE
Document Unique ID: 00
Drafter: CLBLAKESLEY:MA
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731231/aaaaawrr.tel
Line Count: 117
Locator: TEXT ON-LINE
Office: ORIGIN L
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: SURABAYA 435
Review Action: RELEASED, APPROVED
Review Authority: collinp0
Review Comment: n/a
Review Content Flags:
Review Date: 31 OCT 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <31-Oct-2001 by williad>; APPROVED <18 MAR 2002 by collinp0>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: DISPOSITION OF ESTATE, JOHN G. RIEND
TAGS: CDES, ID, (RIEND, JOHN G)
To: SURABAYA
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005